REMARKS/ARGUMENTS

In the Office Action dated January 2, 2013 (hereinafter, "Office Action"), claims 1–4, 13–15, 17, 19–21, 23, 25–26, 28–29, 33–34, 38–39, 42–43, and 48–57 were rejected under 35 U.S.C. § 102(b). Claims 11–12, 16, 18, 22, 24, and 44–47 were allowed.

Applicant respectfully responds to the Office Action.

I. Claims 1–4, 13–15, 17, 19–21, 23, 25–26, 28–29, 33–34, 38–39, 42–43, and 48–57 Rejected Under 35 U.S.C. § 102(b)

Claims 1–4, 13–15, 17, 19–21, 23, 25–26, 28–29, 33–34, 38–39, 42–43, and 48–57 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,396,867 to Tiedemann (hereinafter, "Tiedemann"). Applicant respectfully requests reconsideration in view of the above claim amendments and the following remarks.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of Cal.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the … claim." *Id.* (citing *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicants' claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

As an initial matter, Applicant respectfully submits that this rejection under 35 U.S.C. § 102(b) is improper. Tiedemann issued as a patent on May 28, 2002, and published after the February 21, 2001, filing date of the present application. At most, Tiedemann could only qualify as prior art under 35 U.S.C. § 102(e). The current § 102(b) rejection is therefore improper.

Moreover, the Office Action maintains that Tiedemann anticipates claim 1, including claim 1's "forward link common control channel [that] is shared by a plurality of remote stations." The Office Action states:

> The examiner acknowledges the applicant's amendment made to the current set of claims, however disagrees with the applicant's assertion that the amendment has overcome the prior art cited, specifically Tiedemann (US 6,396,867). The examiner wishes to point the applicant to portions of the specification previously cited, specifically **Col. 7 line 45–50**, which had been cited [by the] examiner. The passages recite specifically "*The forward link power control mechanism of the present invention operates two power control loops. The first power control loop, the closed loop, a**djusts the transmission power** of the base station such that the quality of the filtered amplitude of the reverse link power control bits received at the remote station **is maintained at a target energy level***."
>
> The applicant has actually amended the claim language to recite the same exact term as recited by the Tiedemann reference, "forward link **control** channel". Therefore, the examiner does not agree with the applicant's assertion regarding the amendment made to claims.

(Office Action, pages 2–3.)

Applicant has carefully reviewed the Examiner's response, including the cited portions of Tiedemann. Applicant respectfully submits that the Examiner misinterprets Tiedemann because Tiedemann does not disclose a "forward link common control channel [that] is shared by a plurality of remote stations," like is recited in claim 1.

To begin, it appears that the Examiner relies on Tiedemann's disclosure regarding a "forward link power control mechanism" to disclose a "forward link common control channel." (*See* Tiedemann, col. 7, lines 45–50.) Respectfully, the portion of Tiedemann cited in the Office Action is irrelevant to a "forward link common control channel." Although the cited portion relates to power control, it is unrelated to control channels. In fact, in its entirety, the cited paragraph of Tiedemann does not mention control channels at all. Instead, it only discusses traffic channels. (*See, e.g.*, *id.*, col. 7, lines 50–52 ("In most situations, the target energy level is determinative of the FER of the forward traffic channel."); col. 7, lines 55–57 ("Each forward link power control bit causes the base station to increase or decrease the gain of the corresponding traffic channel.").) Accordingly, Applicant respectfully submits that the Examiner's reliance on the cited portions of Tiedemann is misplaced.

In view of this, Applicant respectfully reasserts that Tiedemann does not disclose claim 1's "forward link common control channel [that] is shared by a plurality of remote stations." Applicant notes that Tiedemann does disclose the use of control channels in relation to Figure 7. Even this disclosure, however, fails to disclose claim 1's subject matter. In relation to Figure 7, Tiedemann explains that "[t]he forward link power control bits can be transmitted to base station 4 by one of several methods." (Tiedemann, col. 14, lines 50–51.) "In the exemplary embodiment, each remote station 6 has a forward link power control channel on the reverse link which is dedicated for the transmission of the forward link power control bits." (*Id.*, col. 14, lines 51–54.) "In the alternative embodiment, wherein the dedicated power control channel is not available, the forward link power control bits can be punctured or multiplexed onto the reverse link data bit stream in a manner similar to that done on the forward traffic channel." (*Id.*, col. 14, lines 54–59.) Thus, Tiedemann describes two embodiments. In the first, each remote station has its own forward link power control channel. This forward link power control channel is therefore not "shared by a plurality of remote stations." In the second embodiment, there is no control channel and the power control bits are punctured into the data stream. Accordingly, Applicant respectfully resubmits that Tiedemann does not disclose claim 1's "forward link common control channel [that] is shared by a plurality of remote stations." Consequently, Tiedemann cannot anticipate claim 1 because Tiedemann fails to disclose all of claim 1's subject matter.

For at least the foregoing reasons, Applicant respectfully submits that claim 1 is allowable. Claims 2–3, 28, and 48 depend from claim 1, and are therefore allowable for at least the same reasons as claim 1.

Claim 4 recites "a transmitter operative to transmit the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 4 is allowable. Claims 29 and 49 depend from claim 4, and are therefore allowable for at least the same reasons as claim 4.

Claim 13 recites "generating a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 13 is allowable. Claims 14–15, 33, and 50 depend from claim 13, and are therefore allowable for at least the same reasons as claim 13.

Claim 17 recites "transmitting the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 17 is allowable. Claims 34 and 51 depend from claim 17, and are therefore allowable for at least the same reasons as claim 17.

Claim 19 recites "means for generating a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 19 is allowable. Claims 20–21, 38, and 52 depend from claim 19, and are therefore allowable for at least the same reasons as claim 19.

Claim 23 recites "means for transmitting the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote station." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 23 is allowable. Claims 39 and 53 depend from claim 23, and are therefore allowable for at least the same reasons as claim 23.

Claim 25 recites "generating a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the remote station shares the forward link common control channel with at least one other remote station." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant re-

spectfully submits that claim 25 is allowable. Claim 54 depends from claim 25, and is therefore allowable for at least the same reasons as claim 25.

Claim 26 recites "transmitting the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 26 is allowable. Claim 55 depends from claim 26, and is therefore allowable for at least the same reasons as claim 55.

Claim 42 recites "a link quality estimation unit operative to generate a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the remote station shares the forward link common control channel with at least one other remote station." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 42 is allowable. Claim 56 depends from claim 42, and is therefore allowable for at least the same reasons as claim 42.

Claim 43 recites "a transmitter operative to transmit the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations." As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that claim 43 is allowable. Claim 57 depends from claim 43, and is therefore allowable for at least the same reasons as claim 43.

II. Allowable Subject Matter

Applicant thanks the Examiner for allowing claims 11–12, 16, 18, 22, 24, and 44–47.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 3/11/13

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